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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,764	10/19/2001	Jonathan H. Metcalf	10700.0005NPUS00	8774

7590 01/30/2003

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EXAMINER

NGUYEN, KIMBERLY D

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/086,764	METCALF ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kimberly D. Nguyen	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 December 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7,34-47,58-66 and 78-86 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7,34-47,58-66 and 78-86 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### *Specification*

1. The abstract of the disclosure is objected to because:

- On line 1: “Disclosed is” should be deleted so that the abstract should be started with “A highly integrated and flexible system...”

Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

2. Claims 38 and 65 are objected to because of the following informalities:

- Claim 38, line 1: “DEX” should be spelled out.
- Claim 65, line 3: What is the “step (d)?” “step (d)” should be specifically spelled out.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 34 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 34, line 2: The phrase “capable of” is vague and indefinite. It has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

- Claim 45, line 1: The phrase “capable of” is vague and indefinite.

Appropriate clarification and correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sharrard (US 5,722,526; hereinafter “Sharrard”).

Re claims 1-2, 6-7: Sharrard teaches a method for determining information about a consumer prior to enabling the vending of a good or service from a machine having all of the elements and means as cited in claim 1. For example, Sharrard teaches a method for determining information about a consumer prior to enabling the vending of a good or service from a machine, comprising: receiving a form/identification-card containing information about the consumer at the machine 5 (figs. 1-3; abstract; col. 2, lines 45-62); optically analyzing the form to electronically determine information about the consumer (figs. 1-3; col. 2, line 62 through col. 3, line 2); and enabling the vend on the basis of the information (figs. 1-3; col. 3, line 44 through col. 4, line 4).

Re claims 3-5: Sharrard teaches a method for determining information about a consumer prior to enabling the vending of a good or service from a machine, wherein optically analyzing the form/identification-card comprises scanning the form/identification-card for a birth date on the driver’s license, which serves as to produce an image, and compare the birth date on the driver’s license with the current date (col. 1, line 63 through col. 2, line 14).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 34-38 and 43-47 are rejected under 35 U.S.C. 102(b) as being unpatentable over DeBan et al. (US 5,386,103; hereinafter “DeBan”) as modified by Muehlberger et al. (US 6,032,859; hereinafter “Muehlberger”).

Re claim 34: DeBan teaches a system comprising: at least one terminal 14 containing a form/check reader 24 capable of taking a magnetic ink character recognition of a consumer identification form (figs. 1-3; col. 3, lines 7-20); and at least one memory device 42, 44 within the at least one terminal 14 for storing templates to assist in the analysis of the optical image to determine consumer information therefrom (figs. 1-3; col. 1, line 58 through col. 2, line 2; col. 3, lines 35-55).

DeBan is silent with respect to the card reader capable of taking an optical image.

Muehlberger teaches a card 22, which is optically analyzed to electrically determine information about the consumer (fig. 1; col. 2, line 54 through col. 3, line 4).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the notoriously old and well known optical card/reader system as taught by Muehlberger in order to adapt the contactless card detection to further avoid the hassle for the users from being consciously/correctly inserting the card into the card reader

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which can be a great distraction to users using the system. Furthermore, the system can detect/read the card itself from a predefined distance so the card won't be worn-out easily by manually put the card in/out of the card reader.

9. Re claims 35-38 and 43-47: DeBan teaches a system, further comprising a server/CPU 26 in communication with the at least one terminal (figs. 1-2; col. 3, line 35 through col. 4, line 15).

10. Claims 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBan as modified by Muehlberger as applied to claim 34 above, and further in view of Sharrard. The teachings of DeBan as modified by Muehlberger have been discussed above.

DeBan as modified by Muehlberger is silent with respect to the terminal is a vending machine, and further comprising an enabling circuit for receiving the consumer information to enabling the vending of goods or services from the terminal.

Sharrard teaches a vending machine 5, and further comprising an enabling circuit for receiving the consumer information to enabling the vending of goods or services from the terminal (figs. 1 and 3; abstract; col. 3, line 44 through col. 4, line 4).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the notoriously old and well known vending machine with enabling circuit as taught by Sharrard to the teachings of DeBan as modified by Muehlberger in order to employ a vending system with a more informative and up to date data arrangement.

11. Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBan as modified by Muehlberger as applied to claim 34 above, and further in view of Shin (US 6,196,460; hereinafter "Shin"). The teachings of DeBan as modified by Muehlberger have been discussed above.

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Re claims 41-42: DeBan as modified by Muehlberger is silent with respect to the terminal is a gas pump, and further comprising an enabling circuit for receiving the consumer information to enabling the vending of goods or services from the terminal.

Shin teaches an age verification device 11, which may be used in a gas station (fig. 1; col. 3, lines 15-40; col. 4, line 60 through col. 5, line 6).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the notoriously old and well known verification system for a gas station and enabling the vending of gasoline accordingly as taught by Shin to the teachings of DeBan in order to employ a vending system with a more informative and up to date data arrangement.

12. Claims 58-59 and 78-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rademacher (US 5,450,938; hereinafter “Rademacher”) as modified by Muehlberger.

Rademacher teaches a method for allowing a consumer to pay for a good or service having a purchase price at a vending machine using a system, the method comprising: receiving at the system consumer account registration information to establish at least one electronic consumer account accessible by the system (col. 9, lines 23-27); receiving a form/card 25 containing information about the consumer into the vending machine (fig. 2; col. 3, lines 6-18); and using the information to electronically charge the purchase price from the at least one consumer account (col. 9, lines 8-22).

Rademacher is silent with respect to the optically analyzing the form to electrically determine information about the consumer.

Muehlberger teaches a card 22, which is optically analyzed to electrically determine information about the consumer (fig. 1; col. 2, line 54 through col. 3, line 4).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the notoriously old and well known optical card/reader system as taught by Muehlberger in order to adapt the contactless card detection to further avoid the hassle for the users from being consciously/correctly inserting the card into the card reader which can be a great distraction to users using the system. Furthermore, the system can detect/read the card itself from a predefined distance so the card won't be worn-out easily by manually put the card in/out of the card reader.

13. Claims 60-64 and 80-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rademacher as modified by Muehlberger as applied to claim 58 above, and further in view of Sharrard. The teachings of Rademacher as modified by Muehlberger have been discussed above.

Re claims 60-62 and 80-82: Although, Muehlberger teaches a card may be read by an optical character recognition (OCR) reader (fig. 1; col. 2, line 54 through col. 3, line 4); Rademacher as modified by Muehlberger is silent with respect to the card is selected from the group consisting of an identification card, a driver's license, a social security card, and a passport.

Sharrard teaches a vending system, wherein the identification card is a driver's license (abstract; col. 1, line 63 through col. 2, line 6; col. 4, lines 47-54).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the identification card which is a driver's license as taught by

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Sharrard to the teachings of Rademacher as modified by Muehlberger in order to employ the driver's license for the customer's identification purposes.

Re claims 63-64 and 83: Rademacher teaches a debit account, which serves as a credit card account, for debiting and crediting purposes (col. 3, lines 6-18; col. 8, lines 30-48).

14. Claims 65-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rademacher as modified by Muehlberger as applied to claim 58 above, and further in view of Tedesco et al. (US 6,085,888; hereinafter "Tedesco"). The teachings of Rademacher as modified by Muehlberger have been discussed above.

Rademacher as modified by Muehlberger is silent with respect to the account comprising a plurality of accounts.

Tedesco teaches a subscription vending system, wherein each subscription account has each unique subscription/redemption code (figs. 3A-3B; col. 5, lines 44-50; col. 7, lines 14-24), wherein if a customer wants a plurality of subscriptions, he/she just purchase/select from the system.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the plurality of accounts as taught by Tedesco to the teachings of Rademacher as modified by Muehlberger in order to diversify the account management to further allow an user to be able to earn more than one subscriptions.

15. Claims 84-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rademacher as modified by Muehlberger as applied to claim 78 above, and further in view of DeBan. The teachings of Rademacher as modified by Muehlberger have been discussed above.

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Rademacher as modified by Muehlberger fails or fairly suggests server disposed between and in communication with the at least one terminal and the at least one integrated system.

DeBan teaches a system, further comprising a server/CPU 26 in communication with the at least one terminal (figs. 1-2; col. 3, line 35 through col. 4, line 15).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the server/host-unit as taught by DeBan to the teachings of Rademacher as modified by Muehlberger in order to employ a vending system with a more informative and up to date data arrangement.

### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Matsumoto et al. (US 6,345,263) teaches an electronic purse application system and method thereof. Maloney et al. (US 6,119,932) teaches an identification verification apparatus and method. Muehlberger et al. (US 5,696,908) teaches telephone debit card dispenser and method. Fite et al. (US 6,467,684) teaches pre-paid card system for purchasing products or services.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 703-305-1798. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-1341 for regular communications and 703-305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-8792.

KDN

January 22, 2003



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